

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

SATURDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 18433 of 2005

Between:

Ravuri Venkata Reddy, S/o. lakshmaiah,
W.G.District.

..... PETITIONER

AND

- 1 The Regional Joint Commissioner, Endowments Department (Multi Zone-I), Kakinada, E.G.District.
- 2 The Asst. Commissioner, Endowments Department, Eluru.
- 3 Sri Someswar Swamy Temple, rep. by its Trustee, Chodimella (V), Eluru (M), W.G.District.

.....RESPONDENTS

ORDER:

The petitioner is a cultivating tenant of Sri Someswar Swamy Temple, Chodimella Village, Eluru Mandal, West Godavari District. The petitioner claims to be a landless poor person as he is cultivating an extent of Ac. 1.30 cents of dry land belonging to the third respondent temple and also owns an extent of Ac.3.23 cents also of dry land. Therefore, on the basis of the total extent of land held by him, he is a landless poor person within the meaning and expression in the explanation under Section 82 of the A.P. Charitable & Hindu Religious Institutions and Endowments Act, 1987 (hereinafter referred to as “the Endowments Act”), is the contention.

In June 2003 the petitioner was served a notice under Form I of Rule 5 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (hereinafter referred to as “Rules”) stating that the lease in his favour stood determined under the provisions of the Act and that he would vacate and deliver vacant possession of the lands or possession would be taken treating him as an encroacher. Thereupon, the petitioner

made a representation/ application before the second respondent under Rule 3 of the said Rules seeking a declaration as a landless poor person setting out the particulars of his holding and cultivation. By the order, the dated 08.03.2004, the second respondent rejected the petitioner's application. Aggrieved, the petitioner preferred an Appeal No.37 of 2004 before the first respondent-appellate authority. By the order, dated 31.12.2004, the first respondent considered the appeal and remanded the issue back to the second respondent for a de-novo enquiry and finding as to the petitioner's claim of being a landless poor person. The second respondent again by the proceedings, dated 06.07.2005, concluded that the petitioner was not a landless poor person as he was cultivating and owned lands in an extent of Ac.4.84 ½, cents which are wet lands.

Canvassing the correctness of this determination by the second respondent and alleging that the conclusions of the second respondent as to the petitioner owning and cultivating wet lands are recorded, ignoring whole of the evidentiary material the petitioner had produced, the petitioner again preferred an Appeal No.313 of 2005 to the first respondent and on 19.07.2005 notices have been issued. The first respondent has neither disposed of the appeal nor granted any interim stay of the second respondent determination denying the petitioner the status of a landless poor person.

Meanwhile, the third respondent devasthanam has scheduled auction for future leasehold rights of its lands including the extent of Ac.1.30 cents in Survey No.251 of Chodimella Village Eluru Mandal, West Godavari District, which are currently in the cultivation of the petitioner. The petitioner apprehends that if the lands are put in auction, he will be dispossessed. Seeking interdiction of proceedings further to the auction, the writ petition is filed.

In the facts and circumstances of the case, as the second round of litigation in the above proceedings is pending before the first respondent and the order of the second respondent, dated 06.07.2005, does not appear to have been made in a rational or adequate consideration of the evidence, this court passes the following order.

The first respondent shall carefully consider the petitioner's Appeal No.37 of 2004, dated 19.07.2005 directed against the orders of the second respondent, dated 06.07.2005, and shall deal with the several documents that have been produced by

the petitioner before the first respondent in support of his claim that the lands cultivated and owned by him are dry lands and not wet lands. The first respondent shall also consider and dispose of the appeal expeditiously and in any event within a period of three weeks from the date of receipt of a copy of this order. Till the disposal of the appeal and depending on the out come of the appeal, the third respondent shall not proceed with the auction of the properties of the third respondent temple, in so far as they pertain to the extent of Ac.1.30 cents in Survey No.251 of Chodimella Village, Eluru Mandal, West Godavari District. The auction if proposed in respect of the other lands of the third respondent temple may go on. The appellate order of the first respondent shall be communicated to the petitioner and the third respondent as well.

The writ petition is disposed of with the above directions, at the stage of admission, after hearing the learned counsel for the petitioner, learned Government Pleader for Endowments and learned standing counsel for third respondent Smt N.Indrani. No costs.

20-08-2005

Note: CC by Monday

By/o kvrm